

Request for Reconsideration  
U.S. Patent Application No. 09/630,121

Nelson shows planks which can be used to form a floating floor. The Examiner further points out that this floor can have a core layer which may be polyvinylchloride and has a decorative overlay, which may be a high-pressure laminate. The Examiner takes the position that many options for the top and bottom layers of the core are taught, and further asserts that the core being exposed at the bottom surface with a decorative laminate as the top surface is "a possible taught option." The Examiner cites column 2, lines 50-61, of Nelson for this argument. The Examiner asserts that Spain et al. shows a transfer printed color layer with a protective coating used to decorate a polyvinylchloride layer. Furthermore, the Examiner relies on Andres to show the use of hollow cavities in a polyvinylchloride floor plank, as well as the use of feet to raise the plank off the floor. Thus, the Examiner asserts that it would have been obvious for one of ordinary skill in the art to use a transfer print layer on the plank of Nelson instead of a printed overlay. Further, the Examiner asserts that it would have been obvious to use cavities and feet in the planks of Nelson in view of Andres in order to lower the weight and amount of material used in the core and to raise the planks off of the sub-floor. It is further asserted by the Examiner that Nelson explicitly and implicitly shows rectangular planks with no type of cupping, and therefore that Nelson as modified by Spain et al. and Andres are equivalent to the planks of the present application. For at least the following reasons, Applicants respectfully traverse the rejection.

Nelson relates to a surface covering for laminate floorings. However, Nelson does not teach or suggest a printed design on top of the plank and at least one protective coating on top of the printed design as recited at least in independent claims 31, 47, 51, and 53 of the present application. Nelson relates to the use of a laminate on top of a core. In contrast, the claimed invention relates to a print done directly on the top surface of the core. There is no motivation in Nelson or the other references cited to modify Nelson to achieve the claimed invention. Further, Nelson does not teach or suggest a

laminate without a backing layer as set forth in claim 51 and the claims dependent therefrom. Every embodiment of Nelson, as shown in the Figures, as disclosed in the specification at columns 1-6, and as set forth in claims 2-8, refers to a lower planar surface which is attached to the bottom surface of the core. There is no reference in Nelson to the absence of a backing layer as recited in claim 51 of the present application. Additionally, there is no teaching or suggestion in Nelson with respect to the thermal treatment of the bottom surface of the core, as recited in claim 53 of the present application. It is known to one of ordinary skill in the art to place a backing layer on a core to reduce curl and/or warping of the product. Products made as known in the art without a backing layer or heat treatment of the bottom layer surface of the core demonstrate an unacceptable curl or warp. Thus, one of ordinary skill in the art would understand Nelson as showing the need to use a backing layer to reduce curl or warp, as known in the art. Contrary to the Examiner's assertions, Nelson does not implicitly or explicitly state that no cupping of the planks described therein occurs. Should the Examiner choose to rely on his statement, Applicants request a showing of where or how Nelson teaches an absence of cupping when, it is known to one of ordinary skill in the art that some amount of cupping occurs, particularly at low humidity.

Spain et al. relates to a plastic sliding panel for outdoor use, wherein the panel has a printed design transferred from a film onto an extruded sheet. Spain et al. recites at column 8, lines 39-52, that the vinyl sheet is regarded as a "laminated extruded film." The film of Spain et al. can not be compared with the laminate core of Nelson, or the core of the present application due to the inherent structural differences between a film and a core. There is no teaching or suggestion to use the printed design with the protective covering as taught in Spain et al. for flooring purposes or indoor use. Thus, there is no motivation to combine the teachings of Nelson and Spain et al. to arrive at the claimed invention.

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Andres relates to a plastic extrusion which does not have a base layer. Andres does not teach a core as shown in Nelson or the claimed invention. Further, no motivation is provided to apply the teachings of Andres to a core as taught in Nelson. Also, the extrusion of Andres is fixed to a sub-floor, and is not a floating surface as set forth in claim 47 of the present application. Further, Andres does not teach or suggest thermal treatment of the bottom surface of a core, as set forth in claim 53 of the present application.

One of ordinary skill in the art would not be motivated to combine the teachings of Nelson, Spain et al, and Andres to arrive at the claimed invention and could not combine the different structures. Nelson teaches a core for use in laminate floorings which does not include a printed design on the top surface. Nelson requires a laminate on top and on the bottom. Spain et al. is directed to the transfer of an image from one thin film to another thin film. Spain et al. is not directed to printing of an image on a core or plank. Andres is not a laminate involving a print layer or protective layer, and therefore also cannot be used to modify Nelson to achieve the claimed invention. Andres is a siding with a completely different design. Thus, there is no teaching or motivation to modify Nelson to include a print layer and a protective coating. Spain et al. is a fixed floor with bottom flat layer. With the completely different design of Spain et al., one would have to use hindsight to pick and choose the various parts of the secondary references and place them on Nelson. This clearly is not the standard and none of the references provide motivation for the Examiner to do so. Further, none of the references teaches or suggests thermally treating the bottom of the core, as set forth in independent claim 53. Therefore, none of the references, taken alone or in combination, teach or disclose the subject matter of the claimed invention. Reconsideration and withdrawal of the rejection are respectfully requested.

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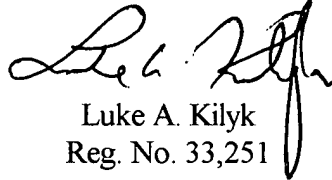
Applicants submit all of claims 7-21, 31-33, and 37-53 are in condition for allowance for at least the reasons set forth herein. Prompt consideration and favorable action in the form of a Notice of Allowance are thus respectfully requested.

Should there be any question regarding the patentability of the claims, the Examiner is encouraged to contact the undersigned by telephone.

**CONCLUSION**

If there are any other fees due in connection with the filing of this response, please charge the fees to deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



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